

1 RAINES FELDMAN LLP
Miles J. Feldman (Bar No. 173383)
2 mfeldman@raineslaw.com
Laith D. Mosely (Bar No. 250832)
3 lmosely@raineslaw.com
Nicole L. Halle (Bar No. 261109)
4 nhalle@raineslaw.com
9720 Wilshire Boulevard, 5th Floor
5 Beverly Hills, California 90212
Telephone: (310) 440-4100
6 Facsimile: (310) 691-1943

7 Attorneys for Avid Life Media, Inc.,
Avid Dating Life, Inc. dba Ashley Madison,
8 ALM Labs, Inc., Cougar Life Inc., and Noel Biderman

9
10 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
11

12 AVID LIFE MEDIA, INC., an Ontario
corporation, and AVID DATING
13 LIFE, INC., an Ontario corporation dba
ASHLEY MADISON,

14 Plaintiffs,

15 vs.

16 DIGISEC MEDIA AS dba
www.victoriamilan.com, a Norway
17 company; SIGURD VEDAL, an
18 individual, and DOES 1 through 10,

19 Defendants

20 DIGISEC LIMITED, a Cyprus
company,

21 Plaintiff,

22 vs.
23

24 AVID LIFE MEDIA, INC., an Ontario
Corporation; AVID DATING LIFE,
25 INC., an Ontario corporation; ALM
LABS, INC., an Ontario corporation,
26 COUGAR LIFE INC., an Ontario
corporation, NOEL BIDERMAN, an
27 individual, and DOES 1 through 10,

28 Defendants

Case No. 12-cv-08602-JAK (FMOx)
[Lead Case]
[Consolidated with Case No.13-CV-
01849-JAK (MANx)]

**DECLARATION OF RIZWAN
JIWAN**

[Assigned to John A. Kronstadt]

DECLARATION OF RIZWAN JIWAN

I, Rizwan Jiwan, declare:

1. I am the Chief Operating Officer of Avid Life Media, Inc. (the "Company"), which wholly owns, Avid Dating Life, Inc., a corporation organized under the laws of Ontario, Canada. I am a resident of Toronto, Canada and am over 18 years old. I have personal knowledge of the matters set forth herein, and if called as a witness I could testify competently thereto.

2. I attended Queen's University (Kingston, Ontario) from 2000 to 2005 and obtained a degree in B.Sc. Computer Engineering (Software Specialization). I also attended the Rotman School of Business at the University of Toronto from 2006 to 2008 and obtained an MBA.

3. The Company wholly owns ALM Labs, Inc. ("ALM"), a corporation organized under the laws of Ontario, Canada. I am an officer of ALM. I am actively involved in the operations of ALM. ALM does not conduct any business in California. It has no offices in California and no employees in California and, no revenue or expenditures in California.

4. The Company also wholly owns, Cougar Life, Inc., a corporation organized under the laws of Ontario, Canada. Avid Dating Life, Inc., ALM Labs, Inc., and Cougar Life, Inc., are collectively referred to herein as the "Canadian Companies." I am actively involved in the operations of each of the Canadian Companies.

5. One of my duties at the Canadian Companies includes overseeing all of the technical analytics of all of the websites run by the Company and the other Canadian Companies.

6. The Company operates the Ashley Madison service at <ashleymadison.com> (the "Ashley Madison Site"). Ashley Madison is an online dating website that focuses on facilitating discreet adult relationships in an online

1 environment with the possibility that the online relationship will mature into a
2 physical meeting.

3 7. In its Complaint, Digisec alleges that it was harmed because users were
4 supposedly referred to the Ashley Madison Site from certain websites:

5 <victoriarnilan.com>, <victoriamilandating.com> and <victoriamilan.ca>
6 (collectively, the "Disputed Websites"). No such referrals occurred in the United
7 States. In other words, as discussed below, the alleged activity causing harm
8 occurred totally outside of the United States.

9 8. The Company and the Canadian companies use in-house MySQL and
10 MarinaDB databases to track information relating to click throughs, sign ups and
11 purchases on the Ashley Madison Site. MySQL and/or MarinaDB databases have
12 been used since the launch of the Ashley Madison Site. I have used the MySQL and
13 MariaDB database servers for nearly 4 years to retrieve data relating to all of the
14 Web sites operated by the Company and the Canadian Companies, including the
15 Ashley Madison Site. Such data is imported into the databases in an automated
16 fashion from each website immediately at the time of the transaction. Specifically,
17 when a member signs up, data relating to that member, including the referring
18 website, the member's login name, location and computer identification are
19 conveyed to the database and stored in the database in the regular course of
20 business. The date the member registered and the Web site from which the member
21 signed up also are stored in the database in the ordinary course of the Company's
22 operations. Thus, the database tracks whether the member "clicked through" a
23 referring site such as the alleged Disputed Websites and later signed up or
24 purchased. The database does not manipulate such data, but maintains it exactly as
25 it was entered by a user or visitor to the website. I routinely use this database to pull
26 up data relevant to the various Company operations and I know from my experience
27 in the field that such data is generally accepted as being reliable.

28

1 9. Using SQL database queries I entered directly into our in-house
2 MySQL and MariaDB servers, I did a search for the number of United States
3 residing users who signed up for and/or purchased products from the Ashley
4 Madison Site that were referred to the Ashley Madison Site through the Disputed
5 Websites. The SQL queries I used only read the data from the databases and I
6 personally don't have any write access to the database used. The direct SQL
7 database queries showed that no users residing in the United States signed up or
8 made a purchase through the Ashley Madison Site that "clicked through" or were
9 referred from the Disputed Websites. A true correct copy of a redacted print-out of
10 that query is attached to this declaration as Exhibit "A." The redactions are only of
11 my user name, the server name and the version of the software used (which are not
12 relevant to the search or the results).

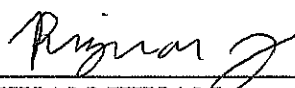
13 10. In addition, Ashley Madison has been using the Google Analytics
14 Tracking program since May 2006 to measure the visitors to the site. Based
15 on nearly 4 years of experience with measuring and analyzing internet performance
16 metrics using various programs, I am familiar with and know the generally accepted
17 programs for measuring data accurately and reliably. The Google Analytics
18 Tracking program is without doubt generally accepted among internet sites that are
19 interested in measuring consumer traffic and consumer behavior, and the data
20 provided by such program is relied upon routinely by industry professionals. In
21 many instances, the Google Analytics Tracking program sets the standard with
22 respect to measuring internet performance and consumer metrics. The manner in
23 which data is retrieved from that program is by executing searches using different
24 variables. One set of data would include how many visitors arrived at Ashley
25 Madison from a referring website. Thus, to determine that number I logged into
26 Google Analytics, created a custom segment to determine the number of all visitors
27 to Ashley Madison Site from the United States that "clicked through," or were
28

1 referred from, the Disputed Websites. The result of my query of Google Analytics
2 was that no visitors matched the criteria I entered.

3 11. In other words, based on the research above, no visitors to the Ashley
4 Madison Site from the United States were referred from the Disputed Websites.

5
6 I declare under penalty of perjury under the laws of the United States of
7 America that the foregoing is true and correct.

8
9 Executed this 10 day of October, 2013 Toronto, Canada.

10
11 
12 RIZWAN JIWAN